

REGULATION SECTION 408 (b) (2) FEE DISCLOSURE TO PLAN SPONSORS

Effective Date

- April 1, 2012

Summary of the Regulation

- A contract or arrangement between a plan and service provider is deemed reasonable only if it meets the requirements of the Regulation.
- The service provider is primarily responsible for meeting the Regulation requirements. Plan sponsors are responsible for:
 - Knowing what information must be disclosed to them by the service provider
 - Notifying the DOL if the information is not provided by the service provider within a reasonable time

Purpose of the Regulation

The Regulation requires service providers to disclose information to assist plan sponsors in assessing the reasonableness of contracts or arrangements regarding:

- Compensation paid to service providers
- Potential conflicts of interests of service providers that may affect their performance

Sunlin Recommended Actions

- Be aware of current provisions of the Regulation
- Identify all service providers

SPECIFICS OF THE REGULATION

Service Providers are Required to Provide in Writing

1. A description of the services to be provided to the plan pursuant to the contract or arrangement
2. Fiduciary Status
 - a. A statement of services that the service provider or its subcontractor is providing as a fiduciary to the plan, if applicable
 - b. A statement of investment advisory services the service provider or its subcontractor is providing as a fiduciary to the plan, if applicable
3. Compensation Disclosure
 - a. Direct
 - b. Indirect
 - c. Among related parties
 - d. For termination of the contract
 - e. For record keeping services
 - f. For additional services, such as accounting, auditing, appraisal, banking, and consulting
 - g. Manner of receipt (billed to plan, billed to plan sponsor, or deducted from participant accounts)

Timing of Initial Disclosure Requirements and Changes

1. Initial disclosure must be made reasonably in advance of date the contract or arrangement is entered into.
2. Changes must be disclosed within 60 days, unless precluded by extraordinary circumstances beyond the control of the service provider.

Plan Sponsor Responsibility

1. Be aware that all service providers to your employee benefit pension plans, including 401(k) plans, are required to provide disclosures described above
2. Request the required information when failure to disclose by a service provider is discovered
3. Notify the Department of Labor if the service provider does not respond to the plan sponsor's request within 90 days